

# 1. LEGAL

## **BASIC REQUIREMENT**

The grantee must be eligible and authorized under state and local law to request, receive, and dispense FTA funds and to execute and administer FTA funded projects. The authority to take actions and responsibility on behalf of the grantee must be properly delegated and executed.

## **AREAS TO BE EXAMINED**

1. *Designation of Recipient/ Supplemental Agreements*
2. *Source and Delegation of Authority*
3. *Annual List of Certifications and Assurances*
4. *Changes in Law and Litigation Affecting Recipient Status*

## **REFERENCE**

1. [49 USC Chapter 53](#), Federal Transit Laws, Section 5307

2. [FTA Master Agreement](#)
3. [Annual List of Certifications and Assurances](#)
4. [FTA Circular 9030.1D](#), "Urbanized Area Formula Program: Program Guidance and Application Instructions"
5. [FTA Circular 9300.1B](#), "Capital Investment Program Guidance and Application Instructions"
6. [FTA C 9050.1](#), The Job Access and Reverse Commute Program Guidance and Application Instructions"
7. [FTA C 9045.1](#), "New Freedom Program Guidance and Application Instructions"
8. [FTA C 9070.1F](#), "Elderly Individuals and Individuals with Disabilities Program Guidance and Application Instructions"
9. [FTA Team-Web](#)

# QUESTIONS FOR THE REVIEW

1. *Is the grantee a designated recipient? If not, is there a signed supplemental agreement?*

## EXPLANATION

By law, funding for the Section 5307 program is provided to the “designated recipient” as defined by 49 USC 5307(a)(2).

- For urbanized areas with a population of 200,000 or more and transportation management areas (TMAs) in urbanized areas with a population under 200,000, an entity designated in accordance with the planning process under sections 5303, 5304, and 5306 by the Governor, responsible local officials, and publicly owned operators of mass transportation services; or a state or regional authority responsible under the laws of a state for a capital project and for financing and directly providing public transportation.
- For urbanized areas with a population under 200,000 that are not TMAs, the Governor or the Governor’s designee(s) is (are) the designated recipient(s).

The designations remain in effect until amended or rescinded.

Documents designating recipients must include:

- For urbanized areas with a population of 200,000 or more and TMAs in urbanized areas with a population under 200,000, concurrence by the Governor or agent with authority delegated by the Governor; concurrence of publicly owned operators of mass transportation in the area; certified resolution of the officials authorized to establish policy for the MPO concurring in the designation; and an opinion of counsel.
- For urbanized areas with a population under 200,000 that are not TMAs, a letter from the Governor to FTA and an opinion of counsel.

For Section 5316 and 5317 funds, the requirements for designating a recipient for urbanized areas with a population of 200,000 or more are the same as those for Section 5307. For urbanized areas with a population under 200,000 and nonurbanized areas, the state is the designated recipient.

If the grantee is not a designated recipient of Section 5307 funds, the designated recipient PINs the supplemental agreement in FTA’s Transportation Electronic Award and Management web-based

system (TEAM-Web) before the grantee can execute the grant.

## REFERENCE

49 USC 5307(a)(2)  
49 USC 5316(a)(3)  
49 USC 5317(a)(1)  
FTA C 9030.1D, Ch. II Section 4  
FTA C 9045.1, Ch. III  
FTA C 9050.1, Ch. III  
FTA TEAM-Web

## SOURCES OF INFORMATION

The desk review at the regional office will confirm the selection of the designated recipient. TEAM-Web will be reviewed to ensure that a supplemental agreement has been PINned for Section 5307 grants if the grantee is not the designated recipient.

## DETERMINATION

The grantee is deficient if it is not a designated recipient and there is no supplemental agreement.

The grantee is deficient if a supplemental agreement has not been PINned for an applicable grant.

## SUGGESTED CORRECTIVE ACTION

The grantee will be directed to obtain designated recipient status, obtain an appointment as the Governor’s designee, or enter into a supplemental agreement with the designated recipient. Submit evidence of the applicable corrective action to the FTA regional office.

2. *Are grants executed by an authorized official? What is the definition and source of the authority of officials acting on behalf of the grantee?*
3. *Are supplemental agreements executed by an authorized official? What is the definition and source of the authority of officials acting on behalf of the designated recipient?*

## EXPLANATION

Officials executing grants on behalf of the grantee and the designated recipient must have appropriate authority as required by state or local law or the grantee’s governing body. The authority must be delegated properly by an authorized official of the agency to the individual who executes the grant in TEAM-Web. If the grantee is not a designated

recipient of Section 5307 funds, an authorized official of the designated recipient must execute the supplemental agreement in TEAM-Web before the grantee can execute the grant.

## REFERENCE

49 USC 5307(a)(2)  
FTA C 9030.1D, Ch. IV, Section 8(1)  
FTA C 9300.1B, Ch. II, Section 9.a  
FTA C 9050.1, Ch. III, Section 1  
FTA C 9045.1, Ch. III, Section 1  
FTA C 9070.1F, Ch. III, Section 1

## SOURCES OF INFORMATION

The Designation of Signature Authority for the Transportation Electronic Award & Management Process forms for the grantee and the designated recipient will be reviewed. TEAM-Web will be reviewed to determine the identity of the official that executed recent grants and, if applicable, executed the supplemental agreement for the recent Section 5307 grants awarded to a direct recipient. The reviewer will obtain documentation indicating the source of authority of officials acting on behalf of the grantee and designated recipient. The source of authority may be state or local laws, an authorizing resolution, or by-laws.

## DETERMINATION

The grantee is deficient if it cannot demonstrate that the person executing the grant has the authority to act on its behalf. The grantee is deficient if it cannot demonstrate that the person executing the supplemental agreement is authorized to act on behalf of the designated recipient.

## SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA regional office delegation of authority for the appropriate individual(s) to execute grants in TEAM-Web.

The grantee will be directed to submit to the FTA regional office the delegation of authority by the designated recipient to the official who executes the supplemental agreement in TEAM-Web.

4. *Was the Annual List of Certifications and Assurances submitted on time? Was it or PINned or signed by an authorized official and attorney?*

## EXPLANATION

The certifications and assurances required of FTA grantees are compiled in a single record published annually in the *Federal Register*, either before or in conjunction with the publication of FTA's annual apportionment notice. Once each year, a grant

applicant or a grantee with open grants must file the certifications and assurances. FTA expects the grantee to record its certifications and assurances in TEAM-Web and provide the appropriate electronic signatures. Should it become necessary for the grant applicant to provide paper certifications and assurances, the *Federal Register* notice includes a signature page that may be signed by the grant applicant's authorized official and attorney and submitted to the appropriate regional office.

The grantee must make the requisite certifications and assurances by: 1) selecting, from a list provided, those certifications and assurances that will apply to all grants for the fiscal year; 2) PINning in TEAM-Web or submitting the signature page signed by the authorized representative and by the legal counsel; and 3) submitting properly signed certifications and assurances on time. FTA recommends that grantees select all certifications and assurances, even those that do not apply.

Certifications and assurances are due with the first grant application in the fiscal year or within 90 days from the date of the publication of the notice in the *Federal Register*, whichever comes first. The Fiscal Year 2011 certifications and assurances were published November 2, 2010.

The certifications and assurances require two signatures or electronic PINs: one from an authorized official and another from an attorney. If the attorney does not PIN in TEAM-Web, he or she must sign a hard copy of the affirmation and the grantee must maintain the hard copy in the file.

## REFERENCE

49 USC 5307(d)(1)  
FTA C 9030.1D, Ch. IV Section 8  
FTA C 9045.1, Ch. IV, Section 10  
FTA C 9050.1, Ch. IV, Section 10  
FTA C 9070.1F, Ch. IV, Section 7  
[Annual List of Certifications and Assurances](#)

## SOURCES OF INFORMATION

TEAM-Web will be reviewed to ensure that the grantee has submitted the Annual List of Certifications and Assurances on time. The Designation of Signature Authority for the Transportation Electronic Award & Management Process forms will be reviewed. State or local laws, authorizing resolutions and delegations of authority will be reviewed to ensure that the person has the authority to PIN on the grantee's behalf. Typically, the person who PINs or signs the certifications and assurances is also the person who executes the grant. If the attorney has not PINned directly in TEAM-Web, a hard copy will be obtained of the signed affirmations for certifications and assurances submitted since the last review.

## DETERMINATION

The grantee is deficient if someone other than an authorized individual PINned the certifications and assurances.

The grantee is deficient if it did not submit the annual certifications and assurances or submitted them late.

The grantee is deficient if the attorney has not affirmed the legal authority of the grantee either by PINning in TEAM-Web or signing a hard copy of the certifications and assurances.

## SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA regional office either the delegation of authority to PIN the annual certifications and assurances, procedures to submit the annual certifications and assurances on time, or procedures to ensure that the attorney affirms the grantee's legal status.

5. *Since the last review, has there been a change in local or state laws and/or litigation that affects the grantee's FTA program? If yes, please describe. Was the FTA notified?*

## EXPLANATION

The grantee is required to notify the regional counsel of any change in local or state law and/or pending litigation that may significantly affect the grantee's eligibility to receive grants or ability to perform

projects in accordance with the terms of the Master Agreement. Any significant change in status will require a new opinion of counsel.

## REFERENCE

[FTA Master Agreement](#), Sections 2.g. and 56.a.

[FTA C 9030.1D](#), Ch. IV, Section 8.a

[FTA C 9300.1B](#), Ch. II, Section 9.a

## SOURCES OF INFORMATION

The desk review will determine if the grantee has notified the regional counsel of any changes in local or state laws and/or litigation in a timely manner. This type of notification may be in the form of a letter or an e-mail correspondence. Authorizing legislation will be reviewed to determine whether the grantee's legal status has or will change. Any changes in local or state laws and/or pending litigation since the last triennial review will be discussed on site.

## DETERMINATION

The grantee is deficient if it has not notified FTA of changes in local or state laws.

The grantee is deficient if it has not notified FTA of pending litigation that may significantly affect the grantee's eligibility to receive grants or ability to perform projects in accordance with the terms of the Master Agreement.

## SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the regional counsel the applicable information and a process to ensure timely notification in the future.